

**CITY OF NEWBERG CITY COUNCIL MINUTES  
DECEMBER 21, 2009  
7:00 P.M. MEETING  
PUBLIC SAFETY BUILDING TRAINING ROOM  
401 EAST THIRD STREET**

An Executive Session pursuant to ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed was held during Work Session prior to the meeting. No decisions were made.

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 7:22 PM.

**II. ROLL CALL**

**Members**

Present:	Mayor Bob Andrews	Denise Bacon	Bob Larson
	Stephen McKinney	Bart Rierson	Marc Shelton
	Wade Witherspoon		

**Staff**

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Howard Hamilton, Public Works Director	Janelle Nordyke, Finance Director
	Barton Brierley, Planning and Building Director	Norma Alley, City Recorder
	Dawn Wilson, Senior Paralegal	Jennifer Nelson, Recording Secretary

**Others**

Present: Douglas Steding, Renee Willer, Steven C. Crosby, and Doug Cooley

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, City Manager, informed council the City received two proposals for an affordable housing project on the existing animal shelter site; staff will review them and report to the Council later. A pre-bid for the Construction Manager/General Contractor (CM/GC) Animal Shelter project was held with twenty-four attendees; a report will be brought before the Council on March 1, 2010.

**V. PUBLIC COMMENTS**

None.

**VI. CONSENT CALENDAR**

1. Consider a motion appointing Janet Irish, Thomas Barnes, and Deanna Moore to the Budget Committee for terms expiring December 31, 2012.
2. Consider a motion appointing David Maben and Tony Rourke to the Citizen Rate Review Committee for terms expiring December 31, 2012.

3. Consider a motion appointing Lon Wall and Warren Parrish for terms expiring December 31, 2012; appoint Thomas Barnes for a term expiring December 31, 2010; and ratify the Newberg Urban Area Management Commission (NUAMC) appointment of Sally Dallas for a term expiring December 31, 2012, to the NUAMC.
4. Consider a motion approving City Council Minutes for November 16, 2009.

**MOTION: Witherspoon/Larson** to approve the Consent Calendar including a motion appointing Janet Irish, Thomas Barnes, and Deanna Moore to the Budget Committee, a motion appointing David Maben and Tony Rourke to the Citizen Rate Review Committee, a motion appointing Lon Wall, Warren Parrish, and Thomas Barnes to the Newberg Area Management Commission (NUAMC), ratifying the NUAMC appointment of Sally Dallas to NUAMC, and the City Council Minutes for November 16, 2009. (7 Yes/0 No) Motion carried.

## VII. PUBLIC HEARING

Consider a motion to approve **Order No. 2009-0025** approving the findings that the proposed annexation and concurrent zone change meet the applicable Newberg Development Code criteria and approve **Ordinance No. 2009-2722** annexing property located at 1409 South Sandoz Road and scheduling the annexation for the May 18, 2010, General Election.

TIME – 7:27 PM

Mayor Andrews introduced the hearing and called for any abstentions, biases, ex parte contact, or objections to jurisdiction.

Councilor Bart Rierson disclosed a possible bias based on his being chair on the Animal Shelter Subcommittee and his efforts to help find the piece of property although he did not feel it would affect his decision tonight.

Councilor Marc Shelton stated he also served on this committee but his decision will not be affected and will be based on presentation tonight.

Mayor Andrews also sat in on the subcommittee meetings as an ex officio member, but the record will determine his decision.

Councilor Stephen McKinney added he served as a subcommittee member as well.

Mr. Terrence Mahr, City Attorney, stated the required legal statements for quasi-judicial hearing process.

Mr. Barton Brierley, Planning and Building Director, presented the staff report (see official meeting packet for full report).

Councilor Shelton discussed the Oregon Department of Transportation's (ODOT) concerns for traffic impacts and the long term plans for the entire nineteen acre parcel; he asked if there were any significant changes foreseen after the wastewater treatment plant is built by 2040. Staff said there may only be a few changes to operation and maintenance purposes with the potential use as a maintenance yard and/or equipment storage for the Public Works Department. Addressing ODOT's concerns, staff added there would be some trips with equipment, but they would only intend to have access through a service road within the parcel.

Mayor Andrews asked about the proposed development concept plan and impact of the airport overlay. Staff stated the major impacts to development were the limits on the height of the structures built and interference in radio transmission or lighting. The height limitations extend four to five hundred feet south in any direction from the runway strip itself and within a cone from the ends of the runway.

Mr. Danicic added this location is far enough away to build a couple stories high and still be compatible.

Councilor Rierson asked what the property conditions might be and if staff will be the only ones approving them. Staff replied they had meetings with neighbors and no negative comments were made or letters submitted other than the one concern from ODOT about traffic; it is unlikely that any conditions would be imposed by the County that the City would not impose themselves.

Mayor Andrews asked for more detail on communications from Mr. and Mrs. Gene Spaugh concerning noise and vision buffering, increased traffic impacts, and onsite parking. Staff stated as Sandoz Road is a dead end road, there is minimal traffic now and any traffic from the site would be to the south and off-street parking within the site will be sufficient. On-street parking will also be allowed and could be taken advantage of from the surrounding residences.

Mayor Andrews opened and closed the public testimony as no one appeared to make a statement. Staff recommended approval of both the order and the ordinance. The city waived the right to keep the record open for seven days and the public hearing was closed.

**MOTION: Larson/Rierson** to approve **Order No. 2009-0025** approving the findings that the proposed annexation and concurrent zone change meet the applicable Newberg Development Code criteria (7 Yes/0 No) Motion carried.

**MOTION: Rierson/Shelton** to approve **Ordinance No. 2009-2722** annexing property located at 1409 South Sandoz Road and scheduling the annexation for the May 18, 2010, General Election, read by title only. (7 Yes/0 No) Motion carried.

## VIII. NEW BUSINESS

Consider a motion approving **Resolution No. 2009-2880** consenting to the transfer of control of the Verizon Cable TV Franchise to Frontier.

TIME – 8:00 PM

Ms. Dawn Wilson, Senior Paralegal, presented the staff report (see official meeting packet for full report).

Mr. Mahr added there was a last minute additional condition to number twelve (12) of Section 3 in the Resolves about the \$10,000.00 contribution to the City's annual operation of the community access channel. Frontier pointed out there are provisions to support community access through the Public, Education and Governmental ("PEG") access funding fee; Council has chosen not to levy this "PEG" fee at this point.

Councilor Shelton asked for some clarifications about the merger language. Staff described the merger agreement as a transfer of control from Verizon Northwest, Inc. to Frontier Communications Corporation.

Councilor Rierson asked what assurances are there that Frontier will continue to staff Verizon's current 11,000 employees and the same level of high speed internet services since it seems they intend to only keep 75% of the current cable channels. Staff stated Frontier will be contracted to keep the technicians for one year and the City will enforce a requirement to maintain the same standard of customer service.

References to changing merger language on pages 97-98 of the meeting packet were discussed as well as other changes made to the resolves to eliminate confusion.

Councilor Rierson wondered why the internet lines were being covered under an ordinance since the television cable lines run with the same pipe in the ground and how this is separated. Staff stated when the ordinance is adopted it regulates the right of way under federal regulations regarding franchises for television.

Mr. Doug Steding, Stoel Rives LLP, Verizon's legal counsel, said from a legal standpoint, the "PEG" issue can be taken care of in the franchise agreement and is not required to be stated in the resolution.

Mr. Mahr asked when the merger is over, will things be controlled by Verizon and Frontier or Frontier only.

Ms. Renee Willer, Verizon, stated Frontier will take control of all the copper and fiber optic (FiOS) network in the ground and on poles for telephone and television services for Newberg. Verizon intends to maintain control over wireless services and larger business contracts. The parent company is Verizon Communications, which is changing who controls access to the lines from Verizon Northwest (a subsidiary of Verizon Communications) to Frontier and the larger Verizon Corporation is not a part and will no longer have ownership.

Councilor Shelton wanted to know where citizens could go if problems developed in services due to the transfer of control.

Mr. Steven C. Crosby, Frontier Communications Corporation, stated a problem would come to Frontier and felt confident any issues could be handled.

Councilor Shelton stated Verizon marketed FiOS from Sherwood to Newberg and customers would not be interested in seeing a reduction in internet service speed, so he hoped Frontier would also be getting high-speed fiber optic internet as well. Mr. Crosby said they will live by the commitments they made. Where there is no fiber optics, they will offer a Digital Subscriber Line (DSL) and they are not planning on lowering the speed. As far as channel availability, what is being carried must be negotiated, but they plan to mirror the same line-up that is now available with Verizon. Concerning television services, they currently use Dish Network and also plan to take Direct TV in the transfer with Verizon.

Councilor Shelton asked if those homes retrofitted to FiOS without copper available could go back to Comcast. Ms. Willer stated if Verizon brought FiOS to a property they did not pull out the copper lines unless requested so the customer has the option to change if they wish.

Councilor Witherspoon asked about the condition to include at least 75% of the current channels and whether Frontier would be satisfied with that 75% or if they anticipate including 100%. Mr. Crosby said he cannot say they will receive 100% of the contracts, but in order to be competitive, they will not be satisfied with only 75%.

Discussions followed about the viability of the fiber optic versus copper networks, new developments are building with fiber optics only, and Frontier's experience with fiber optics.

Mr. Mahr reviewed the changes to the resolution (see official meeting packet for full report).

Mr. Doug Cooley, Comcast, said he was not aware of any other comments other than what has been written and he is not opposed or in support of the decision.

Councilor Rierson asked if there was anything the Council may be missing that they should cover in order to best represent the citizens. Mr. Cooley stated he did not see anything was missing and felt the Council was on target with their questions. He felt Verizon's and Frontier's answers were good, although there are no guarantees with the future. His primary concerns were for the agreements to be equitable for all when discussing "PEG" dollars or annual franchise fees.

Discussions continued concerning the availability of community access channels from Comcast and Frontier.

A brief recess was taken at 9:17 PM for staff to provide Council with a copy of changes. The meeting reconvened at 9:38 PM.

**MOTION: Rierson/Shelton** to adopt **Resolution No. 2009-2880** consenting to the transfer of control of the Verizon Cable TV Franchise to Frontier as corrected. (7 Yes/0 No) Motion carried.

## **IX. COUNCIL BUSINESS**

Mr. Danicic spoke of the need for Portland Community College (PCC) to use some space in the library annex building to hold some classes for the 2010-2011 school year until the primary space within the cultural center is completed. Their rental lease would be for \$700.00 to \$800.00 per month with funds used for improvements. Parking needs and access were discussed by the Council as well as using revenue after the upgrades for the Making Room to Read foundation. Council appeared to be in favor of the arrangement.

Discussions were held briefly on continuing efforts to expand community access and cable channel options as well as declaring biases for hearings when working on Council subcommittees.

1. Executive Session pursuant to ORS 192.660(2)(a) relating to employment of a public officer – Municipal Judge Recruitment.

TIME – 10:03 PM

Executive Session was held and recorded. No decisions were made.

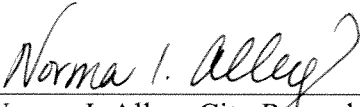
2. Executive Session pursuant to ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed – Initiative Petition.

This Executive Session was held and recorded during the Work Session. No decisions were made.


## **X. ADJOURNMENT**

The meeting adjourned at 11:08 PM.

**ADOPTED** by the Newberg City Council this 19<sup>th</sup> day of January, 2010.

  
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Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 21<sup>st</sup> day of January, 2010.

  
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Bob Andrews, Mayor